

Message Text

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ORIGIN ERDA-07

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FM SECSTATE WASHDC

TO AMEMBASSY BONN PRIORITY

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E.O. 11652: N/A

TAGS: TECH

SUBJ: ERDA/FMRT FAST BREEDER AGREEMENT

REF: BONN 1677

1. FACT THAT FRG LMFBR PROGRAM IS JOINT GERMAN/BELGIAN/DUTCH INITIATIVE IS WELL UNDERSTOOD, AS IS FMRT DESIRE TO ANTICIPATE EVOLVING EUROPEAN PATENT LAW WHICH MAY COME INTO EFFECT IN 1977 AND MAKE ONE PATENT VALID IN ALL COUNTRIES OF EUROPEAN COMMUNITY. FURTHER, WE APPRECIATE FMRT DIFFICULTY IN ANTICIPATING SITUATION NOT YET CLEARLY DEFINED. PARA 1D WAS INSERTED IN ARTICLE 10 OF SUBJECT DRAFT AGREEMENT TO PERMIT MODIFICATION OF PATENT ARTICLE ONCE EUROPEAN PATENT CONVENTIONS COME INTO FORCE.

2. FMRT PROPOSED AMENDMENT, REPORTED REFTTEL, WOULD PERMIT FRG TO OWN RIGHTS IN ALL COUNTRIES OF EUROPEAN COMMUNITY. THIS WOULD POSE SEVERAL DIFFICULTIES.

3. SUBJECT BILATERAL AGREEMENT PROVIDES FOR BALANCED EXCHANGE
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OF RIGHTS BETWEEN ERDA AND FMRT, YET FMRT PROPOSAL WOULD UPSET

THIS BALANCE BY GIVING FMRT RIGHTS IN SEVERAL COUNTRIES, WHEREAS ERDA WOULD HAVE RIGHTS IN ONLY ONE COUNTRY.

4. FMRT PROPOSAL WOULD BE A SUBSTANTIAL DEVIATION FROM OTHER AGREEMENTS BEING NEGOTIATED BETWEEN ERDA AND CORRESPONDING AGENCIES IN OTHER COUNTRIES, AND COULD PLACE ERDA IN IMPOSSIBLE SITUATION OF PROMISING SAME RIGHTS OVER IDENTICAL SUBJECT MATTER TO FMRT AND TO CORRESPONDING AGENCIES OF VARIOUS EC COUNTRIES.

5. TO AVOID ABOVE DILEMMA, ERDA MIGHT PROMISE RIGHTS TO FMRT BUT WOULD THEN HAVE TO FOREGO NEGOTIATING SIMILAR AGREEMENTS WITH CORRESPONDING AGENCIES OF OTHER EC COUNTRIES.

6. FOR ABOVE REASONS, REGRET UNABLE TO ACCEPT PROPOSED AMENDMENT TO ARTICLE 10, PARA 1A(1) OF SUBJECT AGREEMENT REPORTED REFTEL. KISSINGER

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